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TREASURY FOR FTAT, OCC/SIEGEL, AND OASIA/ICB/ATUKORALA
TREASURY PASS FEDERAL RESERVE, FINCEN, AND SEC/JACOBS

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TAGS: [EFIN](#) [AU](#)
SUBJECT: Austria Circles Wagons on Bank Secrecy

¶1. (SBU) SUMMARY: Pressure is mounting on Austria's bank secrecy regime from large EU member states like Germany (who see it as promoting tax evasion by non-Austrians) and beyond. The GoA remains unwilling to touch this highly sensitive issue, since bowing to EU pressure would cause another wave of anti-EU sentiment in a country already known for its skepticism toward Brussels. Even a willing GoA would need to bridge the wide moat around bank secrecy -- namely its constitutional status (legislating change requires a two-thirds parliamentary majority, which the current "grand coalition" does not have). Caught between pressure from the EU/OSCE/G-20 and a potential voter backlash, the current Austrian government has no clear way out at the moment -- though EU Commission President Barroso has floated an intriguing option: abolish secrecy just for non-Austrians. END SUMMARY.

Pressure Growing Against Austria's Bank Secrecy
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¶2. (SBU) Protests from other Europeans over the strict confidentiality in Austrian banking are a hardy perennial: German representatives raise the issue regularly in the OECD, responding to perceived tax evasion by German nationals and German banks' complaints of a competitive disadvantage. In the past, GoA policy-makers brushed off such pressure -- almost as a badge of honor at home -- for instance in March 2008, when EU Taxation and Customs Union Commissioner Laszlo Kovacs called for an end to Austrian banking secrecy. However, the GoA appears to realize that the current crisis poses a new set of challenges:
-- the economic downturn is motivating other EU and OECD governments to crack down on tax evasion, as a potential source of new revenue;
-- USG inroads against Switzerland (a key Austrian ally on bank secrecy) in the UBS case and a successful German campaign against prominent tax evaders in Liechtenstein have signaled that the international community can effect change, and
-- bank reputations worldwide have taken a dire hit.

Drawing Lines in the Sand
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¶3. (U) Bank secrecy is a holy cow in Austria. Speaking for social democrats, former Finance State Secretary Christoph Matznetter said that secrecy is not in place to "protect anybody committing a crime" and that Austria will defend it with "teeth and claws" -- a sentiment echoed across the aisle by conservative finance expert Guenther Stummvoll (head of the Austrian Parliament's Finance Commission).

¶4. (SBU) On February 24, Finance Minister/Vice-Chancellor Josef Proell said publicly that bank secrecy is not in question and that Austria not a tax haven, since it cooperates in suspected criminal tax cases. Chancellor Werner Faymann (a Social Democrat) hailed bank secrecy as something that helps small depositors (COMMENT: a bizarre notion, but widespread in Austria). Responding to media speculation, both emphasized that Austria will not/not give up bank secrecy in exchange for more EU support to Austrian banks active in Central and Eastern Europe. On March 3, in response to our informal inquiry, Finance Ministry (MoF) chose to confirm to us in writing that its position on bank secrecy is unchanged ("not up for discussion").

¶5. (SBU) Austrians argue that tax evaders are deterred by withholding taxes on bank interest. The GoA cites EU Council Directive 2003/48/EC (3 June 2003, on taxation of savings income in the form of interest payments). In that directive, Austria, Belgium, and Luxembourg agreed to apply a withholding tax on foreign deposits of 15% (2005), 20% (2008) and ultimately 35% (from 2011); the GoA retains 25% of withholding tax revenues and transfers 75% to the Member State of residence of the account's beneficial owner. Michael Ikrath (conservative MP and Secretary General of the Savings Bank Association) called this a "prohibitive" tax on foreign accounts and drew a contrast to Switzerland: in Austria, bank secrecy can be lifted in ongoing criminal proceedings against tax fraud (NOTE: but not/not for routine checks by tax

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authorities -- END NOTE).

¶6. (SBU) Privacy groups and many media outlets voice support for bank secrecy. Hans Zeger, head of ARGE DATEN (an Austrian data protection/privacy NGO) voiced concern that abolishing confidentiality would lead to intrusive, proactive government monitoring rather than reactive crime-fighting. There are however, experts in Austria who criticize bank secrecy as contributing to fraud and misallocation of capital.

Looking for Allies, Hinting at Small Measures

¶7. (U) During a visit to Vienna this weekend, EU Commission President Barroso raised bank secrecy repeatedly and hinted at a potential compromise: abolish secrecy only for foreigners (non-Austrians), thereby addressing international tax evasion while averting a backlash in Austria.

¶8. (U) On March 8, GoA FinMin Proell attended a mini-summit of Austrian, Swiss, and Luxembourg representatives to discuss a joint front against abolishing bank secrecy. The three governments agreed to fight any inclusion on a "black list" of uncooperative governments and expressed regret that the issue has left the European arena and is now on the G-20 agenda. In televised comments on the meeting's margin, however, Proell expressed willingness to improve cooperation among tax authorities -- short of abolishing bank secrecy.

COMMENT: Austrian Government Caught in Bind

¶9. (SBU) The topic of bank secrecy remains highly sensitive in Austria, and not simply for the wealthy: even average Austrians (following the lead of dominant daily newspaper Krone Zeitung) see in bank confidentiality the ultimate protection against the state's tentacles (like a financial bill of rights).

¶10. (SBU) Even if the coalition parties (SPO and OVP) wanted to dilute bank secrecy -- and there is no indication of that -- they would need support from at least one other party to achieve a two-thirds majority in Parliament. NOTE: The bank secrecy regulation has the status of constitutional law, which means any changes require a two-thirds majority of votes cast in the lower house of Parliament ("Nationalrat"), with a quorum of at least half of all members -- END NOTE.

¶11. (SBU) Backstepping on bank secrecy would hand a victory to the far-right opposition parties FPÖ and BZÖ, who would welcome the chance to bash the EU and Austrian authorities. The FPÖ and BZÖ have said "no" to any changes (including just for foreigners) and relish having this issue in the headlines. Of Austria's five major parties, only the Greens have signaled any willingness to compromise bank secrecy (even Greens express "privacy" concerns). Greens would extract a high price for touching this third rail.

¶12. (SBU) Any significant dilution of bank secrecy would cause another wave of anti-EU sentiment in Austria and hurt centrist parties in the lead-up to June 2009 European elections. The GoA's governing SPO and OVP parties may have to choose between severe international pressure and a voter backlash -- presuming the GoA can manage to act, given its limited majority. Fortunately for our public diplomacy, European pressure means the bank secrecy issue is not/not viewed primarily as a USG campaign against Austria.

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